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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1689 of 1996

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE G.D.KAMAT

1. Whether Reporters of Local Papers may be allowed to see the judgements? - Yes.

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2. To be referred to the Reporter or not? - No.

[illegible]

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3. Whether Their Lordships wish to see the fair copy of the judgement?- No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?-No.

5. Whether it is to be circulated to the Civil Judge?—No.

AJAMSHA @ FAKIR

Versus

STATE OF GUJARAT

Appearance:

MS KD PARMAR for Petitioner

Mr.L.R.Pujari, Addl.P.P., with

Mr. M.R. Anand, PUBLIC PROSECUTOR for Respondent No. 1

CORAM : THE CHIEF JUSTICE G.D.KAMAT

Date of decision: 18/12/96

ORAL JUDGEMENT

Rule. By consent, to be heard forthwith.

Applicant is convicted under Section 302 and sentenced to life imprisonment. He was in custody as an undertrial from 18th July, 1989 to 7th of December, 1990. His sentence was recorded on 7.12.1990. He enjoyed furlough in the year 1992 and also in the year 1994. According to him, he surrendered in time on both the occasions after the period of furlough was over. He, however, applied for furlough for the year 1996. The same was rejected by the Prison Authorities based upon a judgment of a Division Bench of this Court. A learned single Judge of this Court has taken a view that the judgment delivered by the Division Bench is restricted to grant of parole during the pendency of the appeal before the High Court, in which case the Jail Authorities have no power to grant parole and that furlough cannot be denied merely on the ground that appeal is pending.

Since the applicant claims furlough, his case is required to be considered. Accordingly, respondent No.2 is directed to consider his request for furlough for the year 1996 in accordance with the Rules. Rule is made absolute to the extent indicated.

(apj)